



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,006	08/07/2001	Steven Ebin	3143/1G882-US1	1956

7590 06/25/2004

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
----------	--------------

3713

6

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,006

Applicant(s)

EBIN, STEVEN

Examiner

Scott E. Jones

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it exceeds 150 words as required by 37 C.F.R. § 1.72(b). Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-11 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Rafaeli (WO 00/40313).

Rafaeli discloses a system and method for remotely located players to play various casino games with other players in casinos over a network such as the Internet. Rafaeli additionally discloses:

Regarding Claim 1:

- for each player, receiving at a host server a bet conveyed from a machine connected to the host server through a distributed network (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21);

Art Unit: 3713

- combining the received bets from a set of players into a pot (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21);
- commencing a hosted game among the set of players by prompting the players at their respective machines for inputs (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21);
- receiving the inputs at the host server (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21);
- selecting at least one winner of the hosted game from among the set of players based on the received inputs (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21); and
- allocating the pot of the hosted game to the at least one winner in accordance with prescribed rules (Page 19, lines 13-14).

Regarding Claim 2:

- wherein there is one winner and wherein the allocating step comprises crediting said one winner with the pot (Page 19, lines 13-14).

Regarding Claim 3:

- including the additional step, prior to the allocating step, of deducting a commission from the pot (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12,

line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 4:

- wherein each bet received at the host server comprises an authorization to charge or credit a designated account of a respective player (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 5:

- wherein each of the players in the set of players has agreed to bet the same amount of money to participate in the hosted game (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 6:

- including the additional step of notifying the set of players in the hosted game of the at least one winner (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 7:

- wherein each bet received at the host server comprises an authorization to charge or credit a designated account of a respective player, and wherein the notifying step further includes notifying each player of any charges or credits to a respective designated account (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page

Art Unit: 3713

12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27; and Figures 1-21).

Regarding Claim 8:

- including the additional step, after the allocating step, of prompting each player to play again against the other players in the set of players (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 9:

- including the additional steps of repeating steps in claim 1 (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 10:

- wherein the hosted game is a pick-a-number game and wherein the inputs received at the host server is at least one number from each player (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 11:

- including the additional step of generating a random or pseudorandom number at the host server, and wherein the selecting step comprises: comparing the numbers provided by each player to number generated at the host server for a match, and selecting as the at least one winner any player who input a matching number (Page 2,

line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

Regarding Claim 25:

- wherein the host server conveys to each player's machine a personal Web page which includes statistics concerning that player's performance (Page 2, line 1-Page 4, line 32, Page 7, line 1-Page 9, line 5, Page 12, line 3-Page 13, line 10, Page 14, line 27-Page 15, line 4, Page 16, line 1-Page 20, line 27, and Figures 1-21).

4. Claims 1-11 and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sarno (U.S. 6,024,641).

Sarno discloses a method, apparatus and system for lottery gaming, wherein a simple, objective, verifiable, and reliable method of selecting winning lottery numbers via remote means over a wide area network is disclosed. Sarno discloses:

Regarding Claim 1:

- for each player, receiving at a host server a bet conveyed from a machine connected to the host server through a distributed network (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7);
- combining the received bets from a set of players into a pot (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7);
- commencing a hosted game among the set of players by prompting the players at their respective machines for inputs (Abstract, Figures 1-8, Column 1, lines 8-18, Column

Art Unit: 3713

2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7);

- receiving the inputs at the host server (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7);
- selecting at least one winner of the hosted game from among the set of players based on the received inputs (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7); and
- allocating the pot of the hosted game to the at least one winner in accordance with prescribed rules (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 2:

- wherein there is one winner and wherein the allocating step comprises crediting said one winner with the pot (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 3:

- including the additional step, prior to the allocating step, of deducting a commission from the pot (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column

Art Unit: 3713

7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 4:

- wherein each bet received at the host server comprises an authorization to charge or credit a designated account of a respective player (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 5:

- wherein each of the players in the set of players has agreed to bet the same amount of money to participate in the hosted game.

Regarding Claim 6:

- including the additional step of notifying the set of players in the hosted game of the at least one winner (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 7:

- wherein each bet received at the host server comprises an authorization to charge or credit a designated account of a respective player, and wherein the notifying step further includes notifying each player of any charges or credits to a respective designated account (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Art Unit: 3713

Regarding Claim 8:

- including the additional step, after the allocating step, of prompting each player to play again against the other players in the set of players (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 9:

- including the additional steps of repeating steps in claim 1 (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 10:

- wherein the hosted game is a pick-a-number game and wherein the inputs received at the host server is at least one number from each player (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 11:

- including the additional step of generating a random or pseudorandom number at the host server, and wherein the selecting step comprises: comparing the numbers provided by each player to number generated at the host server for a match, and selecting as the at least one winner any player who input a matching number (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 13:

- including the additional step of generating a random or pseudorandom number at the host server, and wherein the selecting step comprises: calculating a difference between the number provided by each player and the number generated at the host server, and selecting as the at least one winner the player whose calculated difference is a minimum (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 14:

- wherein the selected step excludes any player in the set of players that provided a number which is greater than the number generated by the host server (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 15:

- wherein the selecting step excludes any player in the set of players that provided a number which is less than the number generated by the host server (Abstract, Figures 1-8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

Regarding Claim 16:

- wherein a prescribed number of additional winners are selected in order of increasing calculated differences from said minimum calculated difference (Abstract, Figures 1-

8, Column 1, lines 8-18, Column 2, line 43-Column 7, line 16, Column 8, lines 49-53, Column 9, lines 17-25, Column 13, lines 24-33, and Claims 1-2 and 5-7).

5. Claims 26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (U.S. 6,142,872).

Walker et al. discloses a method and apparatus for a plurality of slot machines and a slot server to enable team play of the slot machines by a plurality of slot machine players. The game results of each player on a given team are combined in a predefined manner to obtain a team game result. The game results of each player may be combined on a "per-spin" basis, or the game results may be collected for each team player over an entire play session, with the net result of each team player combined on a "per-session" basis.

In the "per-spin" embodiment, each team player initiates play (on the same or separate slot machines), and the individual game results of each team player are combined in a predefined manner to obtain the best team game result, with the best team game result being the one that provides the highest resulting payout, for each spin. The individual game results of each team player can be combined by selecting the symbol obtained by the team players in each reel position that provides the team game result with the highest resulting payout.

Alternatively, the individual game result of the team player providing the highest resulting payout can be selected as the team game result.

In the "per-session" embodiment, each team player continues play for an entire play session, and the net result of each team player is analyzed in a predefined manner on a "per-session" basis to obtain the team session result. A session is defined as the number of plays per

session; the duration of the session; or the number of plays until a predefined event occurs. The team session result can be defined as the highest individual net result of a team player after an entire session; the average of the net result of each team player after an entire session; the sum of the highest five payouts awarded to any team player during the session; or the sum of each of the highest payouts for each spin. Walker et al. additionally discloses :

Regarding Claim 26:

- establishing at least a first team and a second team, the teams including non-overlapping sets of players each of which is connected by a machine to a host server through a distributed network (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9);
- receiving at the host server an ante conveyed from each player's machine (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9);
- combining the antes from all of the players into a pot (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9);
- commencing a hosted game among the teams by prompting the players of each team at their respective machines for inputs (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9);
- receiving the inputs at the host server (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9);

Art Unit: 3713

- selecting at least one winning team from among the teams based on the received inputs (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9); and
- allocating the pot of the hosted game to the at least one winning team in accordance with prescribed rules (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9).

Regarding Claim 27:

- wherein the first input received from a player on a given team in response to a particular prompt is registered at the host server and wherein the selecting step is based upon the registered inputs (Abstract, Figures 1-18, Column 2, line 44-Column 3, line 11, and Column 3, line 64-Column 10, line 9).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sarno (U.S. 6,024,641).

Sarno discloses that as discussed above with regards to Claims 1-11 and 13-16.

However, Sarno seems to lack explicitly disclosing:

Regarding Claim 12:

Art Unit: 3713

- wherein, in the event that two or more players input a matching number, steps (c) through (e) are repeated for each player that input the matching number prior to the allocating step.

However, it would have been obvious at the time of applicant's invention to apply a tiebreaker feature to Sarno. One would be motivated to do so in order to have a winner take all game making the game more exciting by providing a larger payout to the winner.

8. Claims 17-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarno (U.S. 6,024,641) in view of Falciglia (U.S. 5,971,849).

Sarno discloses that as discussed above with regards to Claims 1-11 and 13-16.

However, Sarno seems to lack explicitly disclosing:

Regarding Claim 17:

- wherein each player has a respective a list of buddies associated therewith, and wherein each player is apprized as to which, if any, of his or her associated buddies are presently connected to the host server.

Regarding Claim 18:

- wherein one player can challenge a buddy from his or her buddy list to participate in the hosted game by having an electronic message conveyed to that buddy.

Regarding Claim 19:

- wherein the electronic message is an instant message conveyed from said one player's machine to the machine of the challenged buddy.

Regarding Claim 24:

Art Unit: 3713

- permitting multiple potential players to chat in a chat room made available by the host server, and enabling the potential players to select a hosted game in which to participate together, whereby the players choose the members of the set of players for the hosted game.

Falciglia, like Sarno, teaches of a game of chance implemented on remote user terminals over a network and is therefore analogous art. Falciglia teaches of a poker like game for multi-user play and to allow users to have greater selection and strategic interaction with the game as well as to compete with other players. Falciglia teaches:

Regarding Claim 17:

- wherein each player has a respective a list of buddies associated therewith, and wherein each player is apprized as to which, if any, of his or her associated buddies are presently connected to the host server (Column 1, line 35-Column 2, line 5, Column 4, lines 15-19, Column 6, line 65-Column 7, line 22, Column 9, lines 9-18, and Figures 2, 4, 5, and 7).

Regarding Claim 18:

- wherein one player can challenge a buddy from his or her buddy list to participate in the hosted game by having an electronic message conveyed to that buddy (Column 1, line 35-Column 2, line 5, Column 4, lines 15-19, Column 6, line 65-Column 7, line 22, Column 9, lines 9-18, and Figures 2, 4, 5, and 7).

Regarding Claim 19:

- wherein the electronic message is an instant message conveyed from said one player's machine to the machine of the challenged buddy (Column 1, line 35-Column 2, line

5, Column 4, lines 15-19, Column 6, line 65-Column 7, line 22, Column 9, lines 9-18, and Figures 2, 4, 5, and 7).

Regarding Claim 24:

- permitting multiple potential players to chat in a chat room made available by the host server, and enabling the potential players to select a hosted game in which to participate together, whereby the players choose the members of the set of players for the hosted game (Column 1, line 35-Column 2, line 5, Column 4, lines 15-19, Column 6, line 65-Column 7, line 22, Column 9, lines 9-18, and Figures 2, 4, 5, and 7).

It would have been obvious to incorporate Falciglia's chat room feature in Sarno. One would be motivated to do so because introducing personal interaction between game players makes the gaming experience more enjoyable.

9. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafaeli (WO 00/40313) in view of Berner et al. (U.S. 5,813,913).

Rafaeli discloses that as discussed above regarding claims 1-11 and 25. Rafaeli seems to lack explicitly disclosing:

Regarding Claim 20:

- including the additional step of rating each player by skill level and wherein each of the players in the set of players differs in skill level by at most a prescribed amount.

Regarding Claim 21:

- wherein each of the players in the set of players has the same skill level.

Regarding claim 22:

Art Unit: 3713

- wherein the rating step comprises utilizing information in a database concerning at least each player's prior performance in one or more hosted games.

Regarding Claim 23:

- wherein the rating step comprises posting a series of questions to each player and gauging the correctness of the responses provided by each player.

Berner et al., like Rafaeli, teaches of games of skill, such as poker, wherein a plurality of players are grouped together as to skill level over a gaming network. Therefore, Berner et al. and Rafaeli are analogous art. Berner et al. teaches of providing a game of skill where all of the players may compete against other players having a similar skill level. The game of skill is played simultaneously by several participants remote from each other in conjunction with at least one common game event where each participant player of a game receives one or more scores. A common game event is transmitted to each of the remote participants. Control unit means associated with each remote participant receive game play inputs by such participant and score in response to the input. A central computer system means receive the game scores and determine one of a plurality of skill levels of each of the participants for a particular game and also promote to a relatively higher skill level more successful players of such game. The central computer system also includes means for grouping participants together having similar skill levels and communicates relative game scores to the participants only for that particular skill level. There are means for permanently storing the skill level of each participant for each type of common game event. Berner et al. teaches :

Regarding Claim 20:

Art Unit: 3713

- including the additional step of rating each player by skill level and wherein each of the players in the set of players differs in skill level by at most a prescribed amount (Abstract, Column 1, lines 33-54, and Figures 1-6).

Regarding Claim 21:

- wherein each of the players in the set of players has the same skill level (Abstract, Column 1, lines 33-54, and Figures 1-6).

Regarding claim 22:

- wherein the rating step comprises utilizing information in a database concerning at least each player's prior performance in one or more hosted games (Abstract, Column 1, lines 33-54, and Figures 1-6).

Regarding Claim 23:

- wherein the rating step comprises posting a series of questions to each player and gauging the correctness of the responses provided by each player (Abstract, Column 1, lines 33-54, and Figures 1-6).

It would have been obvious to one having ordinary skill in the art to incorporate Berner's player skill grouping feature in Rafaeli's poker embodiment. One would be motivated to do so such that players could compete against other players of similar skill. This challenges the player at his/her level of competition and enables a player of lower skill to be rewarded as they move up the tier ladder. This encourages players by seeing their scores improve against players who are of similar experience and skill.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Falciglia '002 discloses implementing a number match game (bingo) having a player chat feature.
- Wiltshire et al. '602, Vuong et al. '552, Pfeiffer et al. '481, and Harkham '869 disclose implementing casino games over networks.
- Scagnelli et al. '619, Guttman et al. '069, Bergeron et al. '473, and Troy et al. '197 disclose implementing lottery games over a network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones
Examiner
Art Unit 3713

